STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	**12/04/00**	Bill No:	**AB 13**
Tax:	**Sales and Use**	Author:	**Florez**
Board Position:	**Support**	Related Bills:	**AB 7 (Cardoza)**

BILL SUMMARY

This bill would, among other things, provide a sales and use tax exemption for sales and purchases of farm equipment, as defined, purchased by an individual whose primary residence, or small business whose primary place of business, is within the San Joaquin Valley Economic Development Program, established by this bill.

ANALYSIS

Current Law

Under existing law, the sales or use tax applies to the sale or use of tangible personal property in this state, unless otherwise exempted or excluded by statute. Under current law, the sales and use tax applies to sales and purchases of farm equipment to the same extent as it applies to any other sales of tangible personal property that are not otherwise exempted or excluded from tax by statute.

The Sales and Use Tax Law provides some exemptions related to the agricultural industry, as follows:

- Tax does not apply to the sale or purchase of any form of animal life or seeds and plants of a kind, the products of which ordinarily constitute food for human consumption (e.g., sales or purchases of cows, bees, chickens, strawberry plants, and citrus seeds are exempt from tax).
- Sales or purchases of feed for “food” animals and fertilizer for “food” plants are exempt from sales and use tax.
- The sale and purchase of drugs and medicines administered to animals as additives to feed or drinking water are exempt if the primary purpose is to prevent and control disease of “food” animals or of animals which are to be resold.
- Other drugs and medicines, the primary purpose of which is the prevention or control of disease, that are administered to “food” animals are exempt.

Proposed Law

This bill would add Section 6358.5 to the Sales and Use Tax Law to exempt sales and purchases of farm equipment purchased by an individual whose primary residence or a small business whose primary place of business is within the boundaries of the San Joaquin Valley Economic Development Program established by Section 15319 of the Government Code.

The bill would defined "farm equipment' to mean implements of husbandry, as defined in Section 411 of the Property Tax Law, including equipment used in farming, forestry, dairy, cattle, pork, poultry, or winegrower operations.

The bill would add Section 15319 to the Government Code to enact the San Joaquin Valley Economic Development Corridor Act of 2001. It would establish a program, to be administered by the San Joaquin Valley Economic Development Joint Powers Authority, to enhance economic development within the boundaries of that authority. The bill would specify that the boundaries shall include any city or county that is a member of the San Joaquin Valley Economic Development Joint Powers Authority.

The bill would become operative on the first day of the calendar quarter commencing more than 90 days after the bill becomes effective.

Background

There have been several bills considered in the past to provide a partial exemption for sales of agricultural-related equipment. These include:

AB 3089 (1993-94) which would have provided a five percent sales and use tax exemption with respect to tangible personal property purchased by new businesses engaged in the production of food, fiber, and other agricultural commodities. This bill failed passage in the Assembly Revenue and Taxation Committee.

AB 208 (1995-96), similar to AB 3089 above, was amended in the Assembly Revenue and Taxation Committee to delete these sales and use tax provisions.

AB 138 (1997-98), also similar to AB 3089 and AB 208, died in the Assembly Appropriations Committee.

SB 38 (1997-98) would have provided a five percent sales and use tax exemption to sales of implements of husbandry to new businesses engaged in agricultural production or agricultural services. This measure failed passage in the Senate Revenue and Taxation Committee.

SB 818 (1999-00) would have would have provided a five percent state sales and use tax exemption for tangible personal property purchased by new businesses for use in post-harvesting activities of agricultural commodities. This measure failed passage in the Senate Revenue and Taxation Committee.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the author and is intended to enhance the economic development within San Joaquin Valley.

2. **Exemption could be more broad than intended.** The proposed exemption would apply to farming equipment purchased by any individual residing within any city or county falling within the boundaries of the San Joaquin Valley Economic Development Program or any small business similarly located. The bill does not require, however, that the individual or business also be engaged in the business of agricultural operations. Therefore, any equipment that is described in Section 411 of the Property Tax Law would qualify for the exemption, regardless of its use, provided the purchaser meets the location requirement. Consequently, purchases of such items as a shovel, hoe, and pruning shears arguably could qualify for the proposed exemption, as could larger pieces of equipment, such as tillers, cultivators, etc. even if purchased for a gardening hobby or other personal use. If this is not the intent, the author may wish to limit the proposed exemption to persons engaged in the business of farming or other agricultural operations.

3. **"Small business" should be defined.** In order to determine the extent of the proposed exemption, it is necessary that the bill specify exactly what constitutes a "small business."

4. **Purchasers seeking an exemption on their purchases should prequalify with the Board.** Since most purchasers that would qualify for this proposed exemption would not be registered with the Board as retailers, it is recommended that the bill require that any purchaser seeking an exemption from tax on their purchases of qualifying equipment first apply to the Board of Equalization. The Board, in turn, could provide qualified purchasers with an exemption certificate that the purchaser would present to vendors when purchasing qualifying equipment. An exemption certificate, taken in good faith by the vendor, relieves the vendor for the liability of the tax. If the Board subsequently finds that the purchaser did not qualify for the exemption, the Board could hold the purchaser liable for the tax.

5. **Related legislation.** AB 7 (Cardoza), as introduced, would provide a sales and use tax exemption for sales and purchases of farm tractors used in agricultural operations off the highway.

COST ESTIMATE

Some costs would be incurred in notifying affected retailers and verifying claimed exemptions. These costs would be absorbable.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

This bill would define “farm equipment” as implements of husbandry as defined in Section 411 of the Revenue and Taxation Code. Section 411 also references the “implement of husbandry” definition in the Vehicle Code. These definitions are quite broad and would seem to include any piece of tangible personal property used on a farm. For the purposes of this estimate, farm equipment is defined as farm tractors, implements of husbandry, irrigation equipment and any equipment added to a farm tractor or implement of husbandry that aids or enhances the performance of such tractor or implement.

In May 1997, the Far West Equipment Dealers Association (Far West) surveyed their California member dealers for sales of new and used farm equipment. Forty-eight dealers responded to the survey and reported sales of $125.4 million. Expanding these amounts to all 124 California member dealers results in sales of new and used farm equipment of $323.8 million.

The North American Equipment Dealers Association (NAEDA) has produced statistics showing that the average California farm equipment dealer has sales of new and used farm equipment amounting to $4.7 million annually. There are 140 California dealers who are members of NAEDA. Expanding the average sales to all 140 dealers results in total sales of farm equipment of $658 million. This study is based on a survey of 24 California dealers.

Far West believes that the NAEDA results are high due to the fact that the dealers included in that study were larger multi-store dealers and not representative of the whole market. Based on the results from the two studies mentioned above and discussions with Far West, farm equipment sales are estimated to be $450 million annually.

This bill would exempt farm equipment purchased by an individual or small business residing within the boundaries of the San Joaquin Valley Economic Development Program. No definition of small business is given. For purposes of this estimate, we will assume that all farm equipment purchased by these farmers will be exempt.

In order to estimate the percentage of farm equipment sales that would be subject to the provisions of this bill, we need to estimate the portion of the total sales to farmers residing within the boundaries of the San Joaquin Valley Economic Development Program. There are currently nine counties included within these boundaries, as follows: Fresno, Kern, Kings, Madera, Merced, Sacramento, San Joaquin, Stanislaus, and Tulare.

Farm acreage in these counties amounts to 10,072,224 acres, according to the Department of Food and Agriculture. This represents 36.4% of the total farm acreage in California. If we assume that this percentage represents the portion of farm equipment purchases in California made by those farmers residing in these 9 counties, then the estimated sales subject to the provisions of this proposal would be $163.8 million ($450 million x 36.4% = $163.8 million).

Revenue Summary

The revenue impact from exempting farm equipment purchased by an individual whose primary residence, or a small business whose primary place of business, is within the boundaries of the San Joaquin Valley Economic Development Program from the sales and use tax would be as follows:

	Revenue Loss
State loss (5%) *	$ 8.2 million
Local loss (2.25%)	3.7 million
Transit loss (0.67%)	1.1 million
Total	$ 13.0 million

* This assumes that the exemption will be effective starting in 2002 when the state sales tax is scheduled to be 5%.

Analysis prepared by:	Sheila T. Sarem	445-6579	02/02/01
Revenue estimate by:	Dave Hayes	445-0840	
Contact:	Margaret S. Shedd	322-2376	

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